

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 56

S.P. 25

In Senate, January 12, 1995

An Act to Protect Forest Management as a Viable Land Use.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script, reading "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator LORD of York.

Cosponsored by Senator: CASSIDY of Washington, Representatives: DEXTER of Kingfield, GOOLEY of Farmington, GOULD of Greenville, KNEELAND of Easton, LOOK of Jonesboro, MARSHALL of Eliot, McALEVEY of Waterboro, MURPHY of Berwick, NASS of Acton, POIRIER of Saco, SPEAR of Nobleboro.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §8869, sub-§8, as amended by PL 1991, c. 863, §1, is repealed and the following enacted in its place:

8. Relationship to municipal rules and regulations. A municipality may not adopt an ordinance that regulates timber harvesting unless the ordinance is developed in consultation with the department and is reviewed by a professional forester prior to adoption. A municipality's officers must respond in writing to all written comments provided by the bureau in accordance with subsection 9, paragraph B.

Nothing in this subchapter may be construed to preempt or otherwise limit the existing authority of municipalities to regulate harvesting, except that:

A. A municipality regulating timber harvesting shall adopt definitions for forestry terms used in their ordinances that are consistent with forestry terms adopted by the commissioner pursuant to this subchapter;

B. A municipality may not unreasonably limit the harvesting of trees or the transport of forest products by the use of municipal planning and zoning powers or by the unreasonable interpretation of those powers; and

C. A municipality may not adopt an ordinance that regulates the harvesting of trees on land that is, at the time of harvesting operations, under the active supervision of a licensed professional forester, unless the harvesting provisions of the ordinance are given written approval by the commissioner prior to adoption.

For purposes of this subsection, "unreasonable interpretation" includes the failure of local land use authorities to recognize that forestry, when practiced in accordance with applicable laws and regulations, is a traditional, fundamental and accessory use of land throughout the State, and that a prohibition upon this use may not necessarily be inferred from the failure of an ordinance or regulation to address this use.

STATEMENT OF FACT

The purpose of this bill is to limit the scope of regulations that a municipality may impose on timber harvesters.